

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
NORTHEASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Case No. 2:08-cr-06
)	
-vs-)	ORDER ADOPTING REPORT AND
)	RECOMMENDATION
MARQUES LYLE LITTLEWIND, SR.,)	
)	
Defendant,)	
)	
and)	
)	
SPIRIT LAKE TRIBE,)	
)	
Garnishee.)	

A Writ of Garnishment, directed to garnishee, was duly issued and served upon the garnishee. Pursuant to the Writ, the garnishee filed an Answer on December 21, 2009, stating that at the time of the service of the Writ it had in its possession or under its control, personal property belonging to and due Defendant Marques Lyle Littlewind, Sr., ("Littlewind"), and that garnishee was indebted to Littlewind in the sum of \$316.00.

On December 7, 2009, Littlewind was served with the Writ of Continuing Garnishment, Clerk's Notice of Post-Judgment Garnishment and Instructions to Debtor, and a Request for Hearing form. In response to service of the Writ, Littlewind requested a hearing. (Doc. # 59). In addition, Littlewind requested that this Court appoint counsel to represent him at the hearing. (Doc. # 64). The matter was referred to Magistrate Judge Alice R. Senechal for preparation of a Report and Recommendation. (Doc. # 66).

The Court has received a Report and Recommendation (Doc. #67) from the Honorable Alice R. Senechal, United States Magistrate Judge, pursuant to 28 U.S.C. § 636, recommending that Littlewind's motion for court-appointed counsel (Doc. #64) be denied, that Littlewind's

motion for a hearing (Doc. #59) be denied, and that the United States' motion to quash the garnishment hearing (Doc. #61) be granted.

After the Report and Recommendation was filed, Littlewind filed a "Traverse Reply to the Government's Response." (Doc. #68). In his brief, Littlewind argues he is entitled to a lawyer at the garnishment hearing because it is a critical proceeding and also that the garnishment case should be dismissed because the Federal Bureau of Prisons' collection procedures are sufficient to enforce the restitution order.

The Court has reviewed the Report and Recommendation, along with the entire file, and conducted a *de novo* review of Littlewind's arguments, and finds that the Magistrate Judge's position is correct. Accordingly, the Court hereby adopts the Report and Recommendation in its entirety. For the reasons set forth therein, **IT IS ORDERED** that Littlewind's motions for a hearing on the garnishment and appointment of counsel are denied.

IT IS FURTHER ORDERED that this Court finds the requirements of 28 U.S.C. §§ 3202 and 3205 have been met. Accordingly,

IT IS FURTHER ORDERED that the garnishee, Spirit Lake Tribe, issue a check payable to the Clerk of Court in the amount of \$316.00 and send it to the Clerk of Court, P. O. Box 1193, Bismarck, ND 58502-1193 for application toward the criminal monetary penalties assessed against defendant MARQUES LYLE LITTLEWIND, SR., and continue payments until the debt to the plaintiff is paid in full or until the garnishee no longer has custody, possession or control of any property belonging to the debtor or until further order of this Court.

Dated this 19th day of February, 2010.

/s/ Ralph R. Erickson
RALPH R. ERICKSON, Chief Judge
United States District Court